

State of Arizona
House of Representatives
Forty-fifth Legislature
Second Regular Session
2002

CHAPTER 243

HOUSE BILL 2274

AN ACT

AMENDING SECTION 41-1505.05, ARIZONA REVISED STATUTES; AMENDING SECTION 41-1505.05, ARIZONA REVISED STATUTES, AS AMENDED BY THIS ACT; AMENDING SECTIONS 41-1505.06, 41-1505.07 AND 41-1505.10, ARIZONA REVISED STATUTES; RELATING TO THE COMMERCE AND ECONOMIC DEVELOPMENT COMMISSION.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 41-1505.05, Arizona Revised Statutes, is amended
3 to read:

4 41-1505.05. Commerce and economic development commission

5 A. The commerce and economic development commission is established.
6 The commission shall consist of five members WHO ARE appointed by the
7 governor in accordance with section 38-211 and the director of the department
8 of commerce. The director of the department of commerce shall serve as
9 chairman of the commission.

10 B. The commission shall:

11 1. Develop, revise and submit to the director a long-range strategic
12 plan and conduct other study activities as appropriate.

13 2. Review and make recommendations for the department's annual plan.

14 3. Develop policies for use by the department in evaluating requests
15 for grants and other financial assistance programs.

16 4. Issue and make reports as required by law.

17 5. Provide for the administration of the fund established by section
18 41-1505.10.

19 6. Advise the department as needed.

20 ~~7. Administer the small business enterprise and research program as~~
21 ~~provided in article 6 of this chapter.~~

22 C. Each person appointed to the commission shall have training and
23 experience in at least one of the following areas:

24 1. Finance.

25 2. International trade.

26 3. Business management.

27 4. Environment.

28 5. Economics.

29 ~~6. Programs designed to encourage and foster the location of~~
30 ~~businesses within this state and the expansion and retention of existing~~
31 ~~businesses.~~

32 6. ECONOMIC DEVELOPMENT.

33 D. Four members of the commission constitute a quorum for the purpose
34 of conducting business, and an affirmative vote of the majority of members
35 present at any meeting is sufficient for any action to be taken.

36 E. Except for the director of the department of commerce, members of
37 the commission shall serve three-year terms beginning and ending on the third
38 Monday in January.

39 F. By unanimous vote the commission may delegate to one or more of its
40 members or to any of its agents or employees those powers and duties deemed
41 appropriate.

42 G. Members of the commission are not eligible to receive compensation
43 but are eligible for reimbursement of expenses pursuant to title 38, chapter
44 4, article 2.

1 Sec. 2. Section 41-1505.05, Arizona Revised Statutes, as amended by
2 section 1 of this act, is amended to read:

3 41-1505.05. Commerce and economic development commission

4 A. The commerce and economic development commission is
5 established. The commission shall consist of five EIGHT members who are
6 appointed by the governor in accordance with section 38-211 and the director
7 of the department of commerce. The director of the department of commerce
8 shall serve as chairman of the commission.

9 B. The commission shall:

10 1. Develop, revise and submit to the director a long-range strategic
11 plan and conduct other study activities as appropriate.

12 2. Review and make recommendations for the department's annual plan.

13 3. Develop policies for use by the department in evaluating requests
14 for grants and other financial assistance programs.

15 4. Issue and make reports as required by law.

16 5. Provide for the administration of the fund established by section
17 41-1505.10.

18 6. Advise the department as needed.

19 C. Each person appointed to the commission shall have training and
20 experience in at least one of the following areas:

21 1. Finance.

22 2. International trade.

23 3. Business management.

24 4. Environment.

25 5. Economics.

26 6. Economic development.

27 D. Four FIVE members of the commission constitute a quorum for the
28 purpose of conducting business, and an affirmative vote of the majority of
29 members present at any meeting is sufficient for any action to be taken.

30 E. Except for the director of the department of commerce, members of
31 the commission shall serve three-year terms beginning and ending on the third
32 Monday in January.

33 F. By ~~unanimous~~ vote A VOTE OF AT LEAST SEVEN MEMBERS OF THE
34 COMMISSION, the commission may delegate to one or more of its members or to
35 any of its agents or employees those powers and duties deemed appropriate.

36 G. Members of the commission are not eligible to receive compensation
37 but are eligible for reimbursement of expenses pursuant to title 38, chapter
38 4, article 2.

39 Sec. 3. Section 41-1505.06, Arizona Revised Statutes, is amended to
40 read:

41 41-1505.06. Powers and duties; services; confidential
42 information; annual report; liability

43 A. The commission has the following powers and duties:

44 1. Develop comprehensive long-range strategic economic plans for this
45 state and submit them to the director.

1 2. Assist the department in the coordination of the independent
2 efforts of all state and local agencies involved in economic planning and
3 economic development.

4 3. Develop and annually update a ten-year strategic economic plan for
5 submission to the director.

6 4. Adopt resolutions and act on such resolutions.

7 5. EITHER DIRECTLY OR INDIRECTLY, provide financial assistance to
8 businesses locating or expanding within this state. The value of the
9 assistance provided shall not exceed fifty per cent of the estimated total
10 increase in tax revenues accruing to this state and its political
11 subdivisions as a direct or indirect result of the location, retention or
12 expansion of such business as determined by the department.

13 6. Accept gifts, grants or loans and enter into contracts or other
14 transactions with any federal or state agency, municipality, private
15 organization or other source.

16 7. Adopt and use a seal.

17 8. Purchase, acquire or hold by grant, gift, devise, lease or
18 otherwise real or personal property or interests in real or personal
19 property.

20 9. Improve, employ or use any real or personal property or interests
21 in any real or personal property purchased, acquired or held for purposes of
22 this article.

23 10. Sell, convey, lease, exchange, transfer or otherwise dispose of any
24 of its property or any interest in its property, wherever situated.

25 ~~11. Provide financial assistance according to the requirements of the~~
26 ~~small business enterprise and research programs established in article 4 of~~
27 ~~this chapter.~~

28 ~~12.~~ 11. Adopt rules necessary to carry out its duties.

29 B. The commission shall utilize the services of employees of the
30 department. The times and conditions of the use of such employees shall be
31 determined by the chairman of the commission.

32 C. The commission may utilize the services of professionals in the
33 field of economic development under contractual arrangements as deemed
34 appropriate. Such contracts shall be entered into in accordance with chapter
35 23 of this title.

36 D. Any information submitted to or compiled by the commission in
37 connection with its work that concerns the identity, background, financial
38 status, marketing plans or trade secrets or any other proprietary information
39 related to persons, firms, associations, partnerships, agencies, corporations
40 or other entities is exempt from the provisions of title 39, chapter 1,
41 article 2 and deemed confidential and is not subject to disclosure except to
42 the extent that the person or organization that provided the information and
43 to whom the information relates consents to the disclosure.

44 E. On or before the conclusion of each calendar quarter the commission
45 shall report to the governor, the president of the senate and the speaker of

1 the house of representatives on the activities of the commission. The report
2 shall include a detailed accounting of any expenditures made from the fund
3 established pursuant to section 41-1505.10.

4 F. A member or any person acting on behalf of the commission through
5 the execution of any contracts, commitments or agreements issued pursuant to
6 the work of the commission is not personally liable under the contracts,
7 commitments or agreements. A member or any person acting on behalf of the
8 commission is not personally liable for damages or injury resulting from the
9 performance of commission duties.

10 G. Any contract or agreement made in violation of this section is void
11 and does not give rise to any action against the commission.

12 Sec. 4. Section 41-1505.07, Arizona Revised Statutes, is amended to
13 read:

14 41-1505.07. Eligibility for economic development assistance;
15 definitions

16 A. The commission shall establish business incentives and assistance
17 procedures for use by the department, ~~the legislature and other state~~
18 agencies in evaluating the retention, expansion or location of businesses and
19 other qualified projects within this state for the purpose of providing
20 assistance in excess of one million dollars.

21 B. The provision of assistance to a business or other qualified
22 project pursuant to this section is contingent on a finding by the commission
23 that the retention, expansion or location of the business or other qualified
24 project is clearly in the best interests of this state. This finding shall
25 be contained in a resolution adopted by the commission. The resolution shall
26 state that the retention, expansion or location of the business or other
27 qualified project under consideration is clearly in the best interests of
28 this state and shall set forth the evidence and reasons supporting this
29 finding, including:

30 1. The estimated value of the annual tax revenue accruing to this
31 state and its political subdivisions as a direct or indirect result of the
32 location or expansion of such business or other qualified project.

33 2. The public benefit of the business or project from the RETAINED OR
34 increased employment base.

35 3. The extent to which the economic development from the business or
36 project raises the standard of living of persons affected by the business or
37 project, increases free enterprise growth and increases the quality of life
38 in this state through the actions of business, government and the community.

39 4. The ratio of economic benefit from wages paid and capital
40 investment made by the business or project to the amount of assistance given
41 by this state.

42 5. The contribution to the growth of existing businesses and creation
43 of new businesses and business clusters that the business or project will
44 enhance.

1 6. Whether the business or project will pay wages equal to or in
2 excess of the latest available median income in the political subdivision in
3 which such business locates and will provide its employees with benefits such
4 as health care, retirement, child care, educational reimbursements and
5 training.

6 7. The percentage of the products or services the company will export
7 outside of this state over the first five years of operation.

8 8. IN THE CASE OF A BUSINESS LOCATION OR EXPANSION, the number and
9 percentage of the new jobs to be created by the company to be filled by
10 residents of this state in the first five years of operation AND, IN THE CASE
11 OF A BUSINESS RETENTION, THE NUMBER OF JOBS RETAINED IN THIS STATE.

12 C. Before assistance is provided the commission shall conduct OR
13 REVIEW a CREDIBLY PREPARED cost benefit analysis of the project to include:

14 1. Information on direct and indirect public and private costs.

15 2. Negative effects from the business or project, and the assumptions
16 on which the information is based.

17 3. An analysis of the impact of the assistance on state revenues and
18 expenditures, and the assumptions on which that analysis is based.

19 D. IN THE CASE OF A BUSINESS RETENTION OR EXPANSION, the total value
20 of the assistance provided pursuant to this section shall not exceed fifty
21 per cent of the estimated increase in tax revenues received by this state and
22 its political subdivisions as a direct or indirect result of the retention,
23 expansion or location of such THE business or other qualified project as set
24 forth in the resolution required under this section. IN THE CASE OF A
25 BUSINESS RETENTION, THE TOTAL VALUE OF THE ASSISTANCE PROVIDED PURSUANT TO
26 THIS SECTION SHALL NOT EXCEED FIFTY PER CENT OF THE ESTIMATED RETENTION OF
27 TAX REVENUES RECEIVED BY THIS STATE AND ITS POLITICAL SUBDIVISIONS AS A
28 DIRECT OR INDIRECT RESULT OF THE RETENTION OF THE BUSINESS OR OTHER QUALIFIED
29 PROJECT AS SET FORTH IN THE RESOLUTION REQUIRED UNDER THIS SECTION.

30 E. The department shall develop an application process and necessary
31 application forms for use in considering the provision of assistance for the
32 retention, expansion or location of a business or other qualified project
33 within this state. The application and the department's recommendation as
34 to whether assistance should be provided shall be forwarded to the
35 commission. The commission shall act on all applications forwarded by the
36 department.

37 F. The department shall accept all applications requesting assistance
38 as set forth in this section. The application developed pursuant to
39 subsection E of this section shall be sufficient to provide for the
40 determinations of both the department and the commission as required under
41 this section.

42 G. If the business or project does not meet all of the criteria
43 established in subsection B of this section, the commission may give
44 assistance to the business or project but only after stating in the

1 resolution for assistance its reasons for waiving the criteria that are not
2 met.

3 H. A business or project that receives assistance shall enter into a
4 memorandum of understanding with this state through the commission. The
5 memorandum shall contain performance standards the business or project is
6 expected to meet within the first five years after the business facility is
7 occupied ASSISTANCE IS RECEIVED. The business or project shall submit an
8 annual A report NO LESS THAN ANNUALLY of its performance in achieving the
9 standards to the commission. The memorandum shall contain provisions that
10 allow the state, through the commission, to stop, readjust or recapture all
11 or part of the assistance given to the company either in full or in part on
12 noncompliance with the terms of the memorandum.

13 ~~I. In awarding assistance, at least fifteen per cent of the assistance~~
14 ~~awarded shall be awarded to businesses or other qualified projects located~~
15 ~~in the economically disadvantaged areas of the state. In conjunction with~~
16 ~~the department, the commission shall determine which areas of the state are~~
17 ~~economically disadvantaged. If more than two per cent of the total~~
18 ~~appropriation remains unexpended on April 1 of the fiscal year, any amount~~
19 ~~greater than the two per cent may be made available to any business or other~~
20 ~~qualified project. After June 15 of each fiscal year, any unexpended monies~~
21 ~~may be made available to any business or other qualified project.~~

22 ~~J. I. In awarding assistance, the commission shall consider whether~~
23 ~~the assistance would have a negative impact on other Arizona businesses.~~

24 K. J. Any information provided pursuant to an application submitted
25 in accordance with this section is not a public record under title 39,
26 chapter 1, article 2, shall be treated as confidential information and shall
27 not be released without the express consent of the agency completing the
28 application.

29 L. K. This section shall not apply to economic development assistance
30 provided for in sections 41-1508, 41-1514.02 and 41-1532.

31 L. THIS SECTION APPLIES TO A BUSINESS OR OTHER QUALIFIED PROJECT WHERE
32 THE COMMISSION PROVIDES ASSISTANCE IN EXCESS OF ONE MILLION DOLLARS.

33 M. For purposes of this section:

34 1. "Assistance" means loans, grants, loan guarantees or interest rate
35 subsidies. Assistance also means anything of value or any service for a
36 business arranged for or provided for by referral of the commission including
37 job training, tax incentives, improvements or other services.

38 2. "Business or other qualified project" means a private, for-profit
39 enterprise engaged in manufacturing, research and development, office or
40 distribution activities, a research project submitted by the Arizona board
41 of regents or its authorized representative, or any project sponsored on
42 behalf of a qualified activity by this state, its political subdivisions,
43 public or private universities in this state, tribal governments or economic
44 development agencies.

1 Sec. 5. Section 41-1505.10, Arizona Revised Statutes, is amended to
2 read:

3 41-1505.10. Commerce and economic development commission fund;
4 uses; definition

5 A. The commerce and economic development commission fund is
6 established and shall be administered by the director. All monies received
7 by the commission shall be deposited in the fund.

8 B. Except for those monies transferred to the securities regulatory
9 and enforcement fund pursuant to section 44-2054, subsection B, monies in
10 the fund shall be used by the commission to provide financial assistance
11 pursuant to section 41-1505.06, subsection A, paragraph 5 or section
12 44-2054, subsection A.

13 C. On notice from the department of commerce, the state treasurer may
14 invest and divest monies in the fund as provided by section 35-313, and
15 monies earned from investment shall be credited to the fund.

16 D. The fund shall consist of the following sources:

17 1. Not less than twenty-one and one-half per cent of the revenues
18 received from the sale of the two special lottery games conducted each
19 fiscal year by the state lottery commission.

20 2. Fees collected pursuant to section 44-1843, subsection B, section
21 44-1861, subsections C and E, section 44-1892, paragraph 3, section 44-3324,
22 subsection H, paragraph 2 and section 44-3325, subsection C.

23 E. A minimum of twenty-five per cent of the monies ~~appropriated to~~
24 ~~DISBURSED FROM~~ the fund shall be used to provide funding ASSISTANCE, EITHER
25 DIRECTLY OR INDIRECTLY, for businesses or other qualified projects located
26 in rural areas of the state, until April 1 of each fiscal year. If more than
27 two per cent of the total appropriation remains unexpended on April 1 of the
28 fiscal year, any amount greater than the two per cent may be made available
29 to any business or other qualified project. After June 15 of each fiscal
30 year, any unexpended monies may be made available to any business or other
31 qualified project.

32 F. A minimum of twenty-five per cent of the monies ~~appropriated to~~
33 ~~DISBURSED FROM~~ the fund shall be used to provide funding ASSISTANCE, EITHER
34 DIRECTLY OR INDIRECTLY, for businesses employing fewer than one hundred
35 employees, until April 1 of each fiscal year. If more than two per cent of
36 the total appropriation remains unexpended on April 1 of the fiscal year,
37 any amount greater than the two per cent may be made available to any
38 business or other qualified project. After June 15 of each fiscal year, any
39 unexpended monies may be made available to any business or other qualified
40 project.

41 G. IN DISBURSING MONIES FROM THE FUND, AT LEAST FIFTEEN PER CENT OF
42 THE ASSISTANCE AWARDED SHALL BE AWARDED, EITHER DIRECTLY OR INDIRECTLY, TO
43 BUSINESSES OR OTHER QUALIFIED PROJECTS LOCATED IN THE ECONOMICALLY
44 DISADVANTAGED AREAS OF THIS STATE. IN CONJUNCTION WITH THE DEPARTMENT, THE
45 COMMISSION SHALL DETERMINE WHICH AREAS OF THIS STATE ARE ECONOMICALLY

1 DISADVANTAGED. IF MORE THAN TWO PER CENT OF THE TOTAL APPROPRIATION REMAINS
2 UNEXPENDED ON APRIL 1 OF THE FISCAL YEAR, ANY AMOUNT GREATER THAN THE TWO PER
3 CENT MAY BE MADE AVAILABLE TO ANY BUSINESS OR OTHER QUALIFIED PROJECT. AFTER
4 JUNE 15 OF EACH FISCAL YEAR, ANY UNEXPENDED MONIES MAY BE MADE AVAILABLE TO
5 ANY BUSINESS OR OTHER QUALIFIED PROJECT.

6 ~~G.~~ H. Two per cent of the monies in the fund each fiscal year, not
7 to exceed one hundred twenty thousand dollars, is appropriated to the
8 department for the purpose of administering financial assistance
9 programs. The remaining monies shall be used to fund financial assistance
10 approved by the commission and in the amounts approved by the commission.

11 ~~H.~~ I. For the purposes of this section, "business or other qualified
12 project" means a private, for-profit enterprise engaged in manufacturing,
13 research and development, office or distribution activities, a research
14 project submitted by the Arizona board of regents or its authorized
15 representative or any project sponsored on behalf of a qualified activity
16 by this state, its political subdivisions, public or private universities
17 in this state, tribal governments or economic development agencies.

18 Sec. 6. Effective date

19 Section 41-1505.05, Arizona Revised Statutes, as amended by section 2
20 of this act, is effective from and after December 31, 2002.

APPROVED BY THE GOVERNOR MAY 20, 2002.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 20, 2002.



Passed the House April 8, 2002,

by the following vote: 46 Ayes,

0 Nays, 14 Not Voting

[Signature]
Speaker of the House

[Signature]
Chief Clerk of the House

Passed the Senate May 2, 2002,

by the following vote: 28 Ayes,

0 Nays, 2 Not Voting

[Signature]
President of the Senate

[Signature]
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

_____ day of _____, 20____,

at _____ o'clock _____ M.

Secretary to the Governor

Approved this _____ day of

_____, 20____,

at _____ o'clock _____ M.

Governor of Arizona

H.B. 2274

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this _____ day of _____, 20____,

at _____ o'clock _____ M.

Secretary of State

HOUSE CONCURS IN SENATE
AMENDMENTS AND FINAL PASSAGE

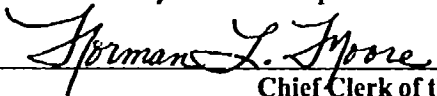
May 15, 2002,

by the following vote: 54 Ayes,

4 Nays, 2 Not Voting



Speaker of the House



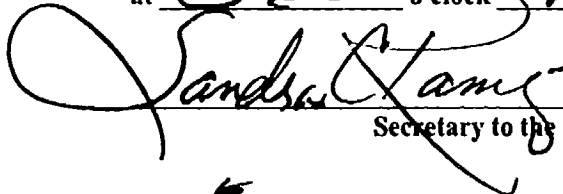
Chief Clerk of the House

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

15 day of May, 2002

at 3:00 o'clock P M.



Secretary to the Governor

Approved this 20th day of

May, 2002,

at 10:15 o'clock A M.



Governor of Arizona

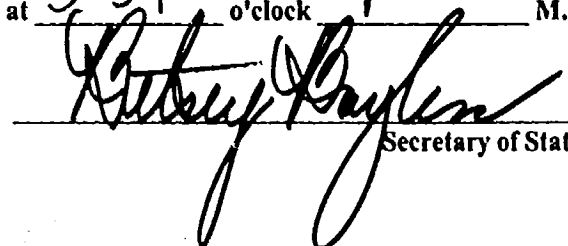
H.B. 2274

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 20 day of May, 2002

at 3:54 o'clock P M.



Secretary of State